IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 741 of 2005
In
SPECIAL CIVIL APPLICATION No. 2819 of 1999
With
CIVIL APPLICATION No. 4864 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE M.C.PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GSRTC - Appellant(s)

Versus

USMANGANI BABABHAI MANSURI - Defendant(s)

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Appearance :
MR HARDIK C RAWAL for Appellant No(s).: 1.
MR MUKESH H RATHOD for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE B.J.SHETHNA
and
HONOURABLE MR.JUSTICE M.C.PATEL

Date : 29/08/2005

ORAL JUDGMENT (Per : HONOURABLE MR.JUSTICE B.J.SHETHNA)

Admit. Learned counsel Shri Mukesh Rathod

appears and waives service for the respondent workman.

2. Heard the learned counsel for the parties. The learned Single Judge partly allowed the petition filed by the appellant - Corporation against the impugned judgment and award passed by the Labour Court by which the termination of the respondent workman was quashed and set aside and he was ordered to be reinstated in service with all benefits of service including continuity of service and ordered to be paid 20% backwages. While partly allowing the petition, the learned Single Judge imposed punishment of stoppage of one increment without future effect. However, while awarding this punishment, it seems that through oversight, the learned Single Judge confirmed the order passed by the Labour Court of awarding backwages of 20%. Once it is found that the misconduct is proved for which punishment is awarded, then, in ordinary circumstances, backwages should not have been awarded.

3. In view of the above, it was vehemently submitted by learned counsel Shri Rawal that in any case, 20% backwages awarded by the Labour Court, while passing the order of reinstatment which was confirmed by the learned

Single Judge, be quashed and set aside. Having regard to the peculiar facts and circumstances of the case, Mr. Rathod for the respondent workman was hardly in a position to submit otherwise. He pointed out that after the reinstatement order was passed by the Labour Court, the respondent workman was already reinstated in service. In that view of the matter, without any hesitation, we uphold the order of reinstatement passed by the Labour Court and confirmed by the learned Single Judge of this court in writ petition. However, the order of 20% backwages awarded by the Labour Court which was not interfered by the learned Single Judge while partly allowing the writ petition is hereby quashed and set aside.

4. Accordingly, the appeal is partly allowed to the aforesaid extent only. Rest of the order of reinstatement with continuity of service and other benefits of service is not interfered with. There shall be no order as to costs

Civil Application stands disposed of as the main

appeal is allowed.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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